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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,616	03/25/2004	Michael Eck	A-9001.RNFMP/cat	5012

7590 09/08/2005

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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,616

Applicant(s)

ECK, MICHAEL

Examiner

Cynthia F. Collado

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/17/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/17/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (Us Patent No.6, 669,210).

Chen discloses a shoe tip provided in a shoe body directly to the shoe body section (see figure 1, element 14), the tongue is fastened to the cap like shoe tip and can be adjusted (see figure 1, element 28), the shoe body section extends on the sides of the shoe body over the greater length of the shoe body (see figure 1, element 12 and 16), the shoe body section extends beyond the shoe tip on it's outer side (see figure 1, element 14), the shoe body section and the shoe tip overlap each other in the longitudinal direction of the chassis with a length that is greater than the maximum adjusting area of the shoe tip (see figure 2, element 14).

Regarding claim 2, Chen discloses the length of the shoe body section in the direction of the chassis is greater by a multiple of the length of the shoe tip (see figure 1, element 12 and 16).

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Regarding claims 4 and 5, Chen discloses the laces reaching from the area of the shoe body section adjacent to the shoe tip to an upper shoe body opening and the lacing reaching from the shoe tip to an upper shoe body opening (see figure 1, element 28).

Regarding claim 7, Chen discloses the shoe tip is guided with a sole section on one guide provided on the chassis (see figure 1, element 47).

Regarding claim 8, Chen discloses a guide made of two rails at a distance from each other and extending parallel to each other in the longitudinal direction (see figure 5, elements 36 and 86), the two guide rails engage in a guide groove on the sole section of the shoe tip (see column 3, lines 7-21).

Regarding claim 9, Chen discloses a locking device for locking the shoe tip (see figure 1, element 20).

Regarding claim 10, Chen disclosed a locking element with one catch that can slide in the chassis against the effect of springs and that act in combination with a counter catch on the shoe tip (see column 3, lines 22-42).

Regarding claim 11, Chen disclosed the catch comprising one tooth (see figure 2, element 68) and the counter catch comprising teeth of a toothed strip (see figure 2, element 74).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (Us Patent No. 6, 669,210).

Regarding claim 3, Chen discloses the claimed invention except for the length of the shoe body section in the direction of the chassis is at least 70% of the maximum total length of the shoe body. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to construct the length of the shoe body section in the direction of the chassis to at least 70% of the maximum total length of the shoe body, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US Patent No. 6, 669,210) in view of Crane et al (US Patent No.5, 234,230).

Regarding claim 6, Crane discloses a impact guard on one side located above a sole of the shoe body and below the lacing and extends from the heel area up to the vicinity of the shoe toe (see figure 1, element 36). Based on the teachings of Crane it

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would have been obvious to one of ordinary skilled in the art at the time of the invention was made to modify the shoe body of Chen to include a impact guard as in Crane so as to provide the protection required to the athletes entire foot and ankles.

Conclusion

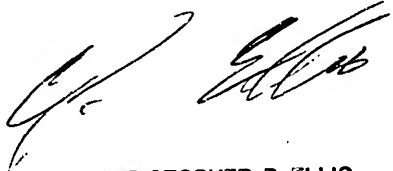
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CFC 8/10/08


CHRISTOPHER P. ELLIS
SENIORITY PATENT EXAMINER
TECHNOLOGY CENTER 3000

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